



ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

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MEMORANDUM

DATE: March 14, 2011

TO: Board of Island County Commissioners

REGARDING: CPA 244/10 - Amendments to the Freeland Sub Area Plan, an element of the Island County Comprehensive Plan, to address the comprehensive planning requirements pursuant to RCW 36.70A.

FROM:

Anthony Boscolo
Senior Planner

INTRODUCTION

Comprehensive Plan Amendment 244/10 is a carryover item from the 2010 Annual Review Docket (ARD) and prior annual review dockets. As part of the ARD, the procedures for review of CPA 244/10 are established in Chapter 16.26 ICC, Comprehensive Plan/Development Regulation Review and Amendment Procedure. CPA 244/10 is being processed as a Type IV amendment, requiring legislative approval pursuant to Chapter 36.70, 36.70A RCW (Planning Enabling Act and Growth Management Act) and ICC 16.26.

As the Board is aware, the Freeland Sub Area Plan (FSAP) was adopted and designated as a Non Municipal Urban Growth Area (NMUGA) in 2007 (C-12-08). The adopting ordinance recognized that only the land use element was Growth Management Act (GMA) compliant, and the outstanding elements of the FSAP would need to be created and then adopted.

A schedule for the completion of the remaining elements was adopted in the Findings of Fact for Ordinance C-12-08. That schedule stated that the county would forward development regulations to the Board in 2008, followed by amendments to the Island

County Comprehensive Plan in 2009 to address the GMA requirements for housing, capital facilities, utilities, transportation, economic development, and parks and recreation. In late 2009, the Planning Department notified the Board that it was problematic to create development regulations prior to completion of the controlling policies, and the Board concurred. This process led to the placement of CPA 244/10 on the 2010 Annual Review Docket.

This amendment to the FSAP updates the land use element adopted in 2007 and creates the remaining elements of the plan. Without this update to the FSAP, and future updates, the realization of the goals, principles, and policies of the plan will not and cannot come to fruition. Island County, local utility and service providers, and the Freeland Water and Sewer District, will rely on the policy framework of the FSAP when creating development regulations, planning for sewer, or providing services.

BACKGROUND

On September 29, 1998 the Board of Island County Commissioners (BICC) adopted Ordinance C-123-98 (approving the Island County Comprehensive Plan), which designated Freeland as a Rural Area of Intense Development (RAID). On November 9, 1998, the BICC adopted Findings of Fact and legislative intent pertaining to the ICCP. The Findings state that due to historical development and existing land use patterns, Freeland is a logical choice for consideration as an Urban Growth Area (UGA). The findings also suggested that a subarea planning group be established to explore the possibility of designating Freeland as a NMUGA. Additionally, the BICC emphasized the goal of the ICCP and County Wide Planning Policies (CWPP) to achieve a 50% urban and 50% rural split in acquiring population growth and recognized that the designation of Freeland as a NMUGA would help achieve this goal. The BICC findings also stated that if Freeland was designated as a NMUGA, the 2020 population projection would be 4,000.

Following the adoption of the ICCP, the Citizen's Growth Management Coalition appealed the Freeland RAID designation, boundary, and development standards to the Western Washington Growth Management Hearings Board (WWGMHB). On June 2, 1999 the WWGMHB concluded that the Freeland RAID designation did not comply with the GMA. The WWGMHB indicated that Freeland has urban characteristics and that the boundaries and allowed densities constitute non-municipal urban growth.

On March 22, 2000, following several briefings between the County and the Citizen's Growth Management Coalition, the WWGMHB issued a Compliance Order for Freeland. The Order revised the June 2, 1999 Order by establishing a schedule to "[r]eassess the designations, densities and uses allowed in Freeland and Clinton RAIDS." The WWGMHB stated that the County should do a proper analysis, make provision for urban services and designate Freeland as a NMUGA or restrict the boundaries, uses, and densities allowed (ICC 17.03 Appendix A). The BICC restricted the boundaries, uses, and densities allowed and also initiated a process to conduct the proper analysis, make provision for urban services, and designate Freeland as a NMUGA.

In 1999 the BICC established the Freeland Sub Area Planning Committee (FSAPC). The Committee was charged with the responsibility of writing a twenty year growth management plan for Freeland. After 74 meetings the Committee forwarded its recommendation to the Island County Planning Commission in 2004. The Planning Commission held public hearings on August 28 and September 11, 2007. After the completion of comprehensive plans for providing sewer and stormwater services, and after completion of an evaluation of potential environmental impacts and methods to mitigate those impacts, the Planning Commission voted on October 2, 2007 to recommend to the BICC that Freeland be designated as a NMUGA and incorporate the FSAP into the County's Comprehensive Plan. On November 21, 2007 the Island County Planning Commission's recommendation for adoption of the FSAP and designation of Freeland as a NMUGA was transmitted to the Board of Island County Commissioners. On December 10, 2007, the BICC approved and adopted the FSAP, the Planning Commission Findings of Fact, and incorporated the FSAP into the ICCP. At that time, it was recognized that the FSAP only contained a land use element, and that other elements would need to be prepared and adopted.

Following the 2007 adoption of the FSAP, an appeal was filed with the WWGMHB challenging that aspects of the FSAP violate the GMA. This appeal (Case No. 08-2-0015) was heard by the WWGMHB on August 21, 2008. On September 29, 2008 the WWGMHB issued their Final Decision and Order upholding the County's approval of the FSAP.

Recognizing the need complete the remaining FSAP elements, the BICC placed the FSAP on the 2010 Annual Review Docket on April 1, 2010 pursuant to RCW 36.70. Placement on the Docket triggered the drafting of the remaining elements of the FSAP, and an update of the 2007 land use element.

The first draft of this work was presented in a public workshop held in Freeland on September 14, 2010. Two additional public workshops followed on October 5, and October 26, 2010. Following each meeting, the public comments received were incorporated into a revised draft of the FSAP. The compiled efforts from the workshop phase created the draft FSAP which was presented to the Island County Planning Commission on December 14, 2010.

The general theme of the comments received during the workshops focused on the following topics: future land use map, population capacity, sewer, open space, and commercial expansion on Myrtle Street.

The Planning Commission held two public hearings on CPA 244/10; on December 14, 2010, and February 3, 2011. Public comment was received during both hearings. Most comments focused on the impacts to property owners associated with sewer, the overall need for subarea planning, and general comments stating overall support for the FSAP. Following the February 3, 2011 Planning Commission hearing, the Commission approved a motion to forward the FSAP to the BICC for their approval.

On February 3, 2011 the Island County Planning Commission approved a motion to forward CPA 244/10 (Exhibit A), 2010 Freeland Subarea Plan, to the Board for its

approval. Subsequently, on February 7, 2011 the Planning Commission signed their Findings of Fact, forwarding their recommendation for approval of CPA 244/10. Pursuant to RCW 36.70, the Planning Commission's recommendation was transmitted to the Board on February 16, 2011.

ANALYSIS

CPA 244/10 updates the FSAP land use element adopted in 2007 and sets forth the completion of the remaining elements of the plan, as required by the GMA. Once the completed subarea plan is adopted, the County can proceed with creating new development regulations (i.e., Zoning) specific to Freeland.

State and County Requirements

The December 2, 2010 staff report presented to the Planning Commission detailed the state and local requirements for approval of CPA 244/10. That report addresses compliance with the State Environmental Policy Act (SEPA) and the GMA. Since that analysis was performed, and the last public hearing by the Planning Commission regarding the Freeland Subarea Plan, information has become available that requires new language to be included in the FSAP to ensure compliance with GMA requirements. These changes will need to be made at some point to the FSAP. Some of the needed updates include:

- Introduction, page 11: Conflict resolution.
- Introduction, page 11: Implementation requirements.
- Land Use & Housing, pages 26, 147: 2010 Census population counts.
- Capital Facilities, Figure 4.2, pages 81-82: Updated financial planning for surface water improvements.
- Capital Facilities, Figure 4.6, pages 74, 90: 2010 amendments to the Freeland Comprehensive Sewer Plan and engineering Report/Facility Plan.
- Capital Facilities, Map 4.1, 91: Identification of Sewer Districts.
- Transportation, pages 116, 120, 122, 130: Copy edits.

To date, the procedural requirements of ICC 16.26, the section of Island County Code that regulates comprehensive plan amendments, have been met.

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General Concerns Raised During the Process

Throughout the public workshops and Planning Commission review of the FSAP, considerable public comment was received and addressed. During this process, three issues were continually raised:

- Freeland Sewer and Reuse Project
- Island County Transportation Plan and FSAP Transportation Element coordination
- Changes to the FSAP Land Use Element

If the Board chooses accept public comment, it is likely the Board will hear these same concerns. To address these concerns, staff has provided the Information below:

Sewer

Sewer is the most important infrastructure needed necessary for future development in Freeland. Without sewer services, Freeland will not be able to develop as a NMUGA. The GMA prohibits the growth envisioned in the FSAP without sewer service, pursuant to RCW 36.70A.070. Arguments about the potential cost of sewer, environmental impacts, or other details of the Freeland Sewer and Reuse project are not relevant to the approval of the FSAP, as they are, and should be addressed through the work performed by the FWSD.

Planning for sewer is being conducted by the Freeland Water and Sewer District (FWSD). Island County is working closely with the FWSD to coordinate efforts, but our two projects are distinct and separate. The FSAP is drafted to be GMA compliant, but recognizes that the six-year official plan for funding the sewer system is still being developed. To be fully compliant with GMA, the Capital Facilities Element of the FSAP will need to be updated to reflect the six-year plan to finance sewer facilities in Freeland, within projected funding capacities, and clearly identified sources of public money for this purpose. Currently, FWSD is perusing a local improvement district (LID) to fund the sewer system.

Transportation

As in the case of the Capital Facilities Element, the Transportation Element, as proposed, will require a future update to ensure the FSAP is internally consistent with the ICCP and the ongoing process to update the Regional Transportation Plan.

The transportation planning framework in Washington State begins with the Washington State Transportation Plan. Within the boundaries established by that document, regional transportation plans are created. Currently, the Skagit-Island Metropolitan and Regional Transportation Plan (M/RTP) is being updated for the planning horizon of 2010-2035. This plan is scheduled for adoption in March 2011. At the County level, the Transportation Element of the ICCP is also scheduled to be updated with an adoption date during 2012.

The FSAP, as recommended by the PC, acknowledges that coordination with the M/RTP and ICCP Transportation Element will be conducted following the adoption of those updated documents. GMA also requires that transportation demand estimates be based on the land use assumptions made in the FSAP. The current transportation demand estimates are based on the land use assumptions of the ICCP and not the land use element

of the FSAP. The two land use assumptions are not drastically different in terms of total population and the types and location of land uses allowed in Freeland. These transportation demand estimates were created in 1998 when Freeland was designated a Rural Area of Intense Development (RAID). The Island County Public Works Department intends to update the Transportation Element of the ICCP in 2012, at which point new transportation demand estimates will be created analyzing Freeland as a NMUGA and using the land use assumptions of the FSAP. This will synchronize the FSAP with the ICCP and ensure internal consistency.

Land Use Element Update

Some concerns were raised by the public over the need to update to the Land Use Element of the FSAP. The Planning Department has addressed these concerns numerous times during the workshops and Planning Commission public process. As stated before, once work began on completing the FSAP, a number of deficiencies were found in the 2007 Land Use Element. These deficiencies include:

- **Rural residential densities within the NMUGA** (1 dwelling unit per acre). The Rural Estate future land use designation in the 2007 FSAP establishes no minimum density and maximum density of 1 (one) dwelling unit per acre. Development of this type would prohibit future urban densities, 4 (four) dwelling units per acre, from occurring and is contrary to GMA.
- **Land use designations without residential densities** (all commercial and mixed use designations). The 2007 FSAP encourages, allows, and plans for mixed residential and commercial development. Specifically, the 2007 FSAP talks about this type of development in the Mixed Use, Business Office, Business General, and Freeland Village Future Land Use Designations. The 2007 FSAP even allocates population to these areas. All of this was done without formally establishing allowable residential densities in these designations. The ability to plan for transportation, sewer, and the services associated with urban development all rely on a planned population and density. Also, the 2007 plan provides no policy framework for establishing maximum or minimum residential densities in the land use designations noted above.
- **Commercial land use designations without commercial building intensities** (all commercial and mixed use designations). GMA requires that building intensities be stated in the land use element. Only very limited guidance is provided in the 2007 FSAP. Within the Business Office designation, the only guidance provided limits buildings to mixtures of one, two, and three-stories. No other guidance is provided in the 2007 FSAP for commercial building intensity. There needs to be a policy basis for the decisions made when creating development regulations. Without this foundation, one could appeal any development regulation on the basis that it is not supported by the comprehensive plan. The 2010 update provides necessary foundation for the creation of development regulations in Freeland.
- **Land use designations not depicted on the future land use map** (Mixed Use Commercial, Mixed Use Transitional, Mixed Use Residential).

GMA requires the location of uses of the land be shown. The 2007 FSAP omits three mixed land use designations from the future land use map. Without showing the location of these land use designations, it is impossible to have a basis for the creating of zoning. The 2010 update modifies the land use designations, and depicts each on the Future Land Use Map.

Additional concerns have been expressed regarding changes to residential densities allowed in the FSAP and their impact on the total residential population capacity of the NMUGA. Because each future land use designation needs to clearly establish the range in population density allowed, and the 2007 Land Use Element did not clearly do this, the proposed land use designations differ slightly from those in the 2007 FSAP. As a result, there were minor changes in the total build out capacity of the NMUGA. Figure 1.4 shows the build out capacity of each future land use designation in the updated land use element. The 2007 FSAP noted a range in population capacity of 4,182 to 6,684. By comparison, the 2010 updated FSAP notes a population capacity range of 3,353 to 6,876. With the high end population capacities estimates differing by fewer than 200 persons, any change to the maximum potential build out between the adopted 2007 FSAP and the proposed 2010 update, is essentially insignificant.

The density ranges were established with the goal of achieving a minimum average density of 4 dwelling units per acre. Each future land use designation allows a residential density of 4 dwelling units per acre or greater within the NMUGA. The Low Density Future Land Use Designation allows a range of 2-4 dwelling units per acre, permitting an orderly transition between urban and rural areas.

If the Planning Department avoided updating the Land Use element, there would have been severe gaps in the policy framework needed to complete the remaining elements of the plan. Further, without clear residential densities and commercial intensities established, planning efforts for sewer, capital facilities, transportation, etc., would all be compromised. And perhaps most importantly, densities and intensities are needed for landowners to know what can be developed on a given piece of property.

Based on all of the above, an update to the FSAP Land Use Element became essential for the overall success of the FSAP, as the Land Use Element is the underpinning of the FSAP.

IMPLEMENTATION STEPS

In order to fully implement the Freeland Subarea Plan a number of steps must be completed. The table below depicts the items remaining, and the approximate time each will occur. Tasks in bold font are requirements of the GMA or ICC, which are not directly connected to the FSAP planning process, and are required to occur regardless of the Board's action on the FSAP.

	2011	2012	2013	2014	2015
Adopt 2010 FSAP Update					
Create and adopt ICCP consistency amendments					
Adopt Skagit-Island Metropolitan Regional Transportation Plan					
Create and adopt development regulations for Freeland					
Create and adopt 2012 Comprehensive Plan Update (all elements)					
Continue Interim Development Regulations					
Sewer and stormwater infrastructure funded and constructed					
Update and adopt FSAP Capital Facilities element					
Implement FSAP					

RECOMMENDATIONS

Action on the PC Recommendation

Pursuant to RCW36.70, the Planning Enabling Act, the Planning Commission made their recommendation that the Board adopt CPA 244/10 on February 3, 2011, and signed their Findings of Fact on February 7, 2011. During regular work session on February 16, 2011, staff transmitted the PC recommendation to the Board. Pursuant to the requirements of the Planning Enabling Act, the Board scheduled a public meeting on March 21, 2011, where the Board may **accept** or **reject** the PC recommendation.

Should the Board accept the PC recommendation and determine that a change to the PC recommendation is necessary, RCW36.70.630 states:

“...if after considering the matter at a public meeting as provided in RCW 36.70.620 the board deems a change in the recommendation of the planning agency to be necessary, the change shall not be incorporated in the recommended control until the board shall conduct its own public hearing, giving notice thereof as provided in RCW 36.70.590, and it shall adopt its own findings of fact and its own analysis of findings considered by it to be controlling” (emphasis added).

To summarize, after considering CPA 244/10 at a public meeting the Board the Board will have 3 options:

Option 1 – The Board may accept the PC recommendation without any changes and adopt CPA 244/10 (final legislative action);

Or

Option 2 – The Board may accept the PC recommendation, and make a determination that changes to the proposed CAP 244/10 are necessary, and schedule a future public hearing to consider adoption of a revised CPA 244/10 with any changes deemed necessary by the Board;

Or

Option 3 – The Board may reject the PC recommendation.

As noted above in the Analysis section of this memo, staff recommends that a limited number changes be incorporated into the Planning Commission recommendation. As such, staff recommends to the Board **Option 2**. This will allow for additional public comment and incorporation of any revisions that the Board deems appropriate.

EXHIBIT A

2010 Freeland Subarea Plan (Inclusive of PC Recommended Changes)

EXHIBIT B

Planning Commission Minutes
February 3, 2011